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**UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**

CHEVRON CORP.,

Plaintiff,

v.

STEVEN DONZIGER, *et al.*

Defendants.

Case No. CV-12-80237 MISC EJD

**ADMINISTRATIVE MOTION TO  
ENLARGE TIME FOR NON-PARTY  
JOHN DOES TO MOVE TO QUASH  
SUBPOENAS TO GOOGLE, INC. AND  
YAHOO!, INC. SEEKING IDENTITY  
AND EMAIL USAGE INFORMATION**

1 Pursuant to Civil Local Rule 6-3, the John Doe Movants hereby move for an order  
2 enlarging time to file a motion to quash two subpoenas issued by Chevron Corporation  
3 (“Chevron”)—one to Google, Inc. (“Google”) and one to Yahoo!, Inc. (“Yahoo!”). Movants also  
4 request an order preventing the service providers from disclosing the information prior to the  
5 determination of the Movants’ motion to quash. The subpoenas seek nine years’ worth of identity  
6 information, location information (in the form of IP logs), and unspecified “email usage  
7 information” about 71 email addresses. These subpoenas, along with a third to Microsoft issued in  
8 the District Court for the Northern District of New York, demand information about 101 email  
9 addresses in total.

10 This motion arises from a lawsuit in the District Court for the Southern District of New  
11 York captioned *Chevron Corp. v. Donziger, et al.*, Case No. 11-cv-0691 (LAK). On September 18,  
12 2012, Chevron issued the subpoenas to Google and Yahoo!, providing the companies a return date  
13 of October 5, 2012. (Declaration of Nathan D. Cardozo (hereafter “Cardozo Decl.”) ¶ 5, Exhibits  
14 B-C.) Pursuant to their internal policies, Google and Yahoo! sent emails to their customers  
15 providing notice of the subpoenas, albeit not immediately. (Cardozo Decl. ¶ 6.) Moreover, some  
16 individuals have reported to us that they do not check these email accounts regularly, so did not  
17 receive notice of the subpoena until a few days after it was sent by their provider, and only then  
18 began seeking counsel. (Cardozo Decl. ¶ 6.) We are informed and believe that some individuals  
19 received notice of Chevron’s subpoena for their account information as recently as October 2,  
20 2012. (Cardozo Decl. ¶ 6.)

21 The vast majority of the individuals whose email addresses are listed in Chevron’s  
22 subpoenas are not named defendants in the underlying lawsuit. (Cardozo Decl. ¶ 7.) Several have  
23 been involved in public advocacy and journalism about the underlying case and a related lawsuit in  
24 Ecuador. Several others are former employees of counsel in the two cases. (Cardozo Decl. ¶ 7.)  
25 The connection of others to the litigation is unclear. Undersigned counsel already represents many  
26 of these non-party individuals, including as of the time of this filing owners of 18 Google Gmail  
27 accounts and 9 Yahoo! email accounts, and are contacted by others on a daily basis. In fact, just  
28 yesterday, October 4, 2012, we were approached by four additional individuals seeking legal

1 counsel in this matter. Today, October 5, 2012, we were contacted by another individual for the  
2 same purpose. (Cardozo Decl. ¶ 7, Exhibit A.)

3 An order enlarging time is necessary and appropriate to allow counsel to conduct intake and  
4 conflicts checks concerning these clients and potential clients; evaluate their particular factual  
5 circumstances; and research, draft, and file their legal responses and declarations. (Cardozo Decl.  
6 ¶ 8.) Additionally, the Movants intend to file a motion to quash the subpoenas that will raise  
7 arguments based on the First Amendment rights to anonymity and association, among other  
8 theories. They will require sophisticated briefing and supporting declarations from at least some of  
9 the email account holders, which themselves must be done anonymously in order not to moot the  
10 very issue upon which the Movants seek review. (Cardozo Decl. ¶ 9.)

11 In addition, an extension is necessary because the movants' attempts to negotiate an  
12 extension, or even to discuss narrowing the subpoenas, with counsel for Chevron have been  
13 unsuccessful. (Cardozo Decl. ¶¶ 10-20.) Undersigned counsel has repeatedly asked Chevron's  
14 counsel to extend the subpoena compliance deadline to October 22, 2012 as to all the email  
15 account holders listed in the subpoenas, explaining that we have been contacted by a number of  
16 individuals whose identities and email usage information have been sought, and we expect to hear  
17 from additional individuals as they continue to receive notice of the subpoenas from Google and  
18 Yahoo!. (Cardozo Decl. ¶¶ 11-12, 14, 16, 18-19.) We have explained to counsel for Chevron that  
19 we hope to eventually represent all the non-parties whose information Chevron seeks, and that we  
20 intend to move to quash each subpoena in its entirety, given the extraordinary scope of information  
21 requested by Chevron. (Cardozo Decl. ¶ 12.)

22 We have also asked that Chevron extend the subpoena compliance deadline to allow  
23 negotiation of the scope of the subpoenas, which might narrow the issues the Court must address or  
24 entirely eliminate the need for our clients to file a motion to quash those subpoenas. (Cardozo  
25 Decl. ¶¶ 12, 14, 18-19.) To date, however, Chevron has been unwilling to extend the subpoena  
26 compliance deadline for any email account holders except those that we specifically identify as our  
27 clients at this time, has not clarified what information the company is seeking, and has failed to  
28 engage in negotiation to narrow the requests. (Cardozo Decl. ¶¶ 15, 17 & 20.)

1 The Movants respectfully request that the Court issue an order enlarging time to file a  
 2 motion to quash each subpoena in its entirety up to and including October 22, 2012. The extension  
 3 is necessary to ensure that all those who wish to participate in the motion have sufficient time to  
 4 secure representation. It will also allow undersigned counsel sufficient time to prepare a motion to  
 5 quash, including multiple supporting Doe declarations, addressing the constitutional and other  
 6 issues raised by the subpoenas. (Cardozo Decl. ¶ 22.) Counsel remains hopeful that Chevron will  
 7 be willing to discuss narrowing the subpoenas (which reach back to before Google's Gmail service  
 8 was even launched) in the intervening period.

9 Without the extension Movants seek, not only will their ability to present their arguments  
 10 fully to the Court be prejudiced, but the rights of additional potential movants will be substantially  
 11 and irreparably harmed. Any potential motion on behalf of individuals who are just now receiving  
 12 notice of Chevron's subpoenas will be mooted if this extension is denied and Google or Yahoo!  
 13 produce their information to Chevron before those individuals are able to object. (Cardozo Decl.  
 14 ¶ 23.)

15 For the foregoing reasons, the Court should grant an enlargement of time until October 22,  
 16 2012 for the John Doe movants to move to quash the September 18, 2012 subpoenas served by  
 17 Chevron upon Google and Yahoo!, and order Google and Yahoo! not to comply with the  
 18 subpoenas until at least three days after the Court rules on the Movants' motion to quash to allow  
 19 time for an appeal, if necessary.

20 DATED: October 5, 2012

Respectfully submitted,

ELECTRONIC FRONTIER FOUNDATION



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